

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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CLIFFORD STEWARD, individually and :  
on behalf of all similarly :  
situated persons, : NOT FOR PUBLICATION  
Plaintiff, : ORDER  
:   
-against- : 04-CV-1508 (CBA)(RML)  
:   
THE CITY OF NEW YORK; :  
THE NEW YORK CITY BOARD OF :  
EDUCATION, HAROLD O. LEVY, :  
individually and in his official capacity as :  
Chancellor of the New York City Board :  
of Education; FELIX E. VASQUEZ, :  
individually and in his official capacity as :  
Community Superintendent of District 32 :  
of the New York City Board of Education; :  
MILDRED L. BOYCE; THE UNITED :  
FEDERATION OF TEACHERS; and :  
PACE UNIVERSITY, :  
Defendants. :  
-----X  
AMON, UNITED STATES DISTRICT JUDGE

For the reasons stated on the record of the oral argument held at 4:00 p.m. on Friday, September 9, 2005, the motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a cause of action by defendants the City of New York, the New York City Board of Education, and Harold O. Levy is denied without prejudice to filing a motion for summary judgment.

The parties also are ordered to engage in limited discovery regarding the nature of the Teaching Fellows program and the plaintiff's participation in that program.

SO ORDERED.

Dated: Brooklyn, NY  
September 9, 2005

Carol Bagley Amon  
United States District Judge